



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Matthew H. Mead, Governor

Todd Parfitt, Director

CERTIFIED MAIL

September 25, 2013

**Mr. Galen Bortz
12 Deer Draw Trail
Pine Haven, WY 82721**

RE: Notice of Violation, Docket Number 5185-13

Dear Mr. Bortz:

Enclosed is a copy of Notice of Violation, Docket Number 5185-13 issued to Galen Bortz (Landowner), for an unpermitted discharge from a reverse osmosis treatment facility (ROTF) operated on the his property. There is evidence that processed wastewater is being discharged from the ROTF and flooding downstream landowners. Additional evidence indicates the discharge has occurred for the past 3-5 years potentially causing damage to trees and vegetation and created large areas of standing water with cattails and weeds growing in the impacted area. This unpermitted discharge was observed by the Department of Environmental Quality/Water Quality Division (WDEQ/WQD) on August 5, 2013 and review of DEQ data base records indicated no previous permit for this facility has been issued. This unpermitted discharge is a violation of the Wyoming Environmental Quality Act (Act) and the Wyoming Water Quality Rules and Regulations (WWQRR).

While neither the attached Notice of Violation nor this letter constitutes an order, it is the recommendation of this office that you take action to eliminate the alleged violation as follows:

1. Landowner should inform the Water Quality Division (WQD) in writing of the steps taken to eliminate the unpermitted discharge from the RO treatment facility without proper authorization. This information should be received by the WQD within 21 days from the date of this letter.
2. Landowner should cease all unpermitted discharges from the ROTF until a WYPDES discharge permit has been obtained.
3. Landowner shall submit the application for a WYPDES permit and receive authorization prior to any future discharges from the ROTF.
4. Landowner should investigate any damage downstream of the discharge from the ROTF, take necessary correction actions as necessary, and report on such action to the WQD within 21 days from the date of this letter.

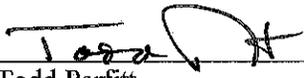
Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7158 FAX 777-7682	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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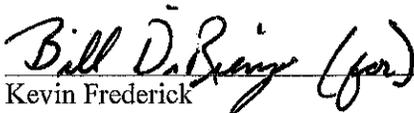


Bortz RO Treatment Facility
September 25, 2013
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The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Landowner. If Landowner wishes to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Kevin M. Wells, WYPDES Natural Resource Program Supervisor at 777-8669, or Mr. Bill DiRienzo, WYPDES Permitting and Compliance Program Supervisor at (307) 777-7081, within 21 days of the date of this letter to set up a meeting to discuss this matter.



Todd Parfitt
Director
Department of Environmental Quality



Kevin Frederick
Administrator
Water Quality Division

TP/KDF/KMW/bb/13-0915

Enclosure: Notice of Violation

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)
Bill J. DiRienzo ► Kevin M. Wells (PDF)
IPS (for scanning) ► Docket 5185-13
Keith Guille, DEQ Public Information Officer (PDF File Only)

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

**IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO:)**

**Mr. Galen Bortz)
12 Deer Draw Trail)
Pine Haven, WY 82721)**

DOCKET NUMBER 5185-13

NOTICE OF VIOLATION

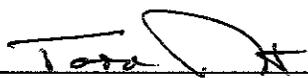
NOTICE IS HEREBY GIVEN THAT:

1. Galen Bortz (Bortz) owns and operates a reverse osmosis water treatment facility (ROTF) on private property located in Pine Haven, Crook County, Wyoming. The ROTF is located in the NENE Section 14, Township 50 North, Range 66 West, in Crook County, Wyoming. According to DEQ records Bortz has not received authorization to discharge any wastewater from the ROTF under the Wyoming Pollution Discharge Elimination System (WYPDES) permitting process. Such authorization is issued by the Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD).
2. On August 5, 2013, DEQ inspectors from the Sheridan office met with landowners Dale Muhlbauer and Jim Sobotka (complainants) to document the discharge from the ROTF operated by Bortz on property up gradient from the complainants' property. During the site inspection a discharge from the ROTF was observed flowing downstream to the complainant's property. Review of the DEQ WYPDES data base indicated the discharge has not been permitted at this time.
3. Additionally, the DEQ inspectors observed standing water, wetland areas with cattails and other riparian vegetation, and flowing water in a diversion ditch on the complainant's property. The diversion ditch was constructed by the complainants to divert the water around their property and diminish the flooding that had been occurring. According to statements from the complainants, the discharge has been occurring for the past 3-5 years. In areas impacted from the flow of wastewater dead ponderosa pines and loss of other natural occurring vegetation were observed.
4. Any processed wastewater is defined as "pollution" in W.S. 35-11-103 (c)(i).
5. The Department of Environmental Quality has no record of active permits authorizing discharge from the facility at the time of the inspection.
6. By discharging pollution, with a potential to impact waters of the state, Bortz is in violation of W.S. 35-11-301 (a)(i) and Chapter 2 of the Wyoming Water Quality Rules and Regulations (WWQRR) which states that no person, except when authorized by a permit issued by the Department of Environmental Quality, shall cause, threaten or allow the discharge of any pollution or wastes into the waters of the state.
7. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), which requires that in any case of the failure to correct or remedy an alleged violation, the director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.
8. Pursuant to Wyoming Statute 35-11-901(a), any person who violates, or any director, officer or agent of a corporate permittee who willingly and knowingly authorizes, orders or carries out the

violation of any provision of the Environmental Quality Act (Act), or any rule, regulation, standard or permit adopted hereunder or who violates any determination or order of the council pursuant to this act or any rule, regulation, standard, permit, license or variance is subject to a penalty not to exceed ten thousand dollars and no cents (\$10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction. The penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming. Nothing herein shall preclude the department from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions, in lieu of litigation.

NOTHING IN THIS NOTICE OF VIOLATION (NOV) shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

Signed this 7th day of October, 2013.



Todd Parfitt
Director
Department of Environmental Quality



Kevin Frederick
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Kevin M. Wells, WYPDES Natural Resource Program Supervisor at the Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

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DEQ Director